



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
JIMMY LEE BANKS,	)	
	)	
Complainant,	)	
	)	Charge No.: 2000CF0223
and	)	EEOC No.: 21B992714
	)	ALS No.: 11312
JEWEL FOOD STORES,	)	
	)	
	)	
Respondent.	)	

**RECOMMENDED ORDER AND DECISION**

On June 29, 2000, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Jimmy Lee Banks. That complaint alleged that Respondent, Jewel Food Stores, discriminated against Complainant on the basis of his sex when it reprimanded and suspended him.

This matter now comes on to be heard on Respondent's Motion to Dismiss With Prejudice. Despite being served with that motion, Complainant failed to file a written response to the motion. The matter is now ready for decision.

**FINDINGS OF FACT**

The following facts are based upon the record file in this matter.

1. On August 30, 2000, a scheduling order was entered in this matter by Administrative Law Judge David J. Brent. That

scheduling order set a final status date of February 14, 2001. Complainant was present when the scheduling order was entered and he was given a copy of the order.

2. On February 14, 2001, Judge Brent entered an order setting a public hearing date of May 18, 2001. Complainant was present when that order was entered and he was given a copy of the order.

3. On May 11, 2001, Respondent's counsel sent a letter to Complainant to advise him of the company's possible witnesses and to remind him of the upcoming hearing date.

4. Complainant did not appear at the scheduled public hearing date. He did not move for a continuance or contact the office of the Commission to explain his absence.

5. On May 22, 2001, Respondent's Motion to Dismiss With Prejudice was filed. That motion was served upon Complainant by mail. Complainant has not responded to that motion and the time for response has passed.

#### CONCLUSIONS OF LAW

1. Complainant's failure to prosecute this matter has unreasonably delayed these proceedings.

2. This matter should be dismissed with prejudice because of Complainant's inaction.

#### DISCUSSION

This matter has been pending since June of 2000. Although Complainant appeared at both the initial status and the final

status hearings, he failed to appear at the scheduled public hearing or to explain his absence. Since the final status hearing, he has done nothing to prosecute his claim.

After Complainant failed to appear at the public hearing, Respondent filed a written motion to dismiss the case. Complainant has not responded in any way to that motion.

Under section 8A-102(I)(6) of the Human Rights Act, 775 ILCS 5/1-101 et seq., an administrative law judge may recommend dismissal of a case if a complainant fails to prosecute his case or appear at a scheduled hearing. Complainant's behavior meets that standard. His continued inaction, even in the face of a motion to dismiss, strongly suggests that he has abandoned his claim. As a result, it is appropriate to dismiss his claim with prejudice. See **Leonard and Solid Matter, Inc.**, \_\_\_ Ill. HRC Rep. \_\_\_, (1989CN3091, August 25, 1992).

#### RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned his claim. Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: August 1, 2001